

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

KENNETH ROSE, et al,

Plaintiff(s)

vs.

ERIC DAVIS, et al,

Defendant(s)

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Case Number: 1:02cv271-SJD

District Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on March 28, 2005 Report and Recommendations (Doc. 34). Subsequently, both plaintiffs and defendants filed objections to such Report and Recommendations.

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Accordingly,

1. Defendant Davis' motion for summary judgment is hereby GRANTED as to Plaintiff Rose's claim that Defendant Davis unconstitutionally seized his person during the traffic stop if he indeed makes this claim.
2. Defendant Battison's motion for summary judgment is hereby GRANTED as to Plaintiff Seibert's claim that Defendant Battison unconstitutionally searched his home.
3. Defendant Battison's motion for summary judgment is hereby GRANTED as to Plaintiff Rose's claim that Defendant Battison unconstitutionally seized Plaintiff Rose.

4. Defendant Battison's motion for summary judgment is hereby GRANTED as to Plaintiff Rose's claim that Defendant Battison unconstitutionally used excessive force in arresting Plaintiff Rose.
5. Defendant Davis' motion for summary judgment is hereby DENIED as to Plaintiff Rose's claim that Defendant Davis unconstitutionally seized Plaintiff Rose's property.
6. Defendants Davis and Battison's motion for summary judgment on behalf of John Does I-XX, Police Officers is hereby DENIED.
7. John Does I-XX, Police Officers are hereby DISMISSED from this suit.
8. Defendant Davis and Battison's motion for summary judgment is hereby GRANTED as to Plaintiffs' state law claims arising out the search of Plaintiff Seibert's house, the seizure of Plaintiff Rose, and the alleged use of excessive force against Plaintiff Rose.

Therefore, in summary, IT IS ORDERED THAT Defendant Davis' motion for summary judgment is GRANTED except as to Plaintiff Rose's claim that Defendant Davis unconstitutionally seized Plaintiff's Rose's property. It is further ordered that Defendant Battison's motion for summary judgment is GRANTED. It is further ordered that Defendants John Does I-XX, Police Officers, are DISMISSED from this suit.

IT IS SO ORDERED.

s/Susan J. Dlott  
Susan J. Dlott  
United States District Judge